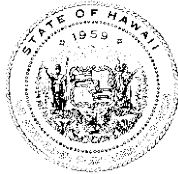


**DAVID Y. IGE**  
Governor

**SHAN S. TSUTSUI**  
Lieutenant Governor

**LUIS P. SALAVERIA**  
Director

**MARY ALICE EVANS**  
Acting Deputy Director



**LAND USE COMMISSION**  
Department of Business, Economic Development & Tourism  
State of Hawai'i

**DANIEL ORODENKER**  
Executive Officer

**Bert K. Saruwatari**  
Planner  
**SCOTT A.K. DERRICKSON AICP**  
Planner

**RILEY K. HAKODA**  
Chief Clerk/Planner

**FRED A. TALON**  
Drafting Technician

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Statement of  
**Daniel E. Orodener**  
**Executive Officer**  
Land Use Commission  
Before the  
**House Committee on Agriculture**  
**And**  
**House Committee on Tourism**  
Wednesday February 10, 2016  
1:15 PM  
State Capitol, Conference Room 312

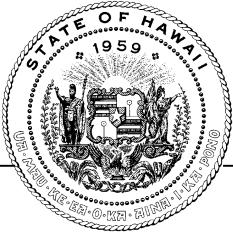
In consideration of  
**HB 2091**  
**RELATING TO LAND USE**

Chairs Tsuji and Brower, Vice Chairs Onishi and Ohno, and members of the Committees on Agriculture and Tourism:

The Land Use Commission takes no position on HB2091, with regard to the policy set forth by this body to allow agricultural tourism activity and overnight accommodations on agricultural land. However, we would like to make the Committees aware that a similar measure, already in effect in Maui County only, has resulted in a significant number of applications for agricultural tourism and overnight accommodations in that County. We would estimate that at least two to three such applications are processed weekly by Maui County.

While the argument that farmers may need additional income to defray the costs of agricultural activities and balance the losses associated with seasonal production swings is understandable, it must be acknowledged that allowing these types of use in the Agricultural district will change the character of the district and result in a significant number of lodging and tourism venues in what was land previously used solely for agriculture. The committee should consider how the expansion of commercial non-agricultural uses, particularly transient vacation rentals, may actually increase costs and make it more difficult for adjacent bona fide farmers to conduct agricultural operations.

Thank you for the opportunity to testify on this matter.



**OFFICE OF PLANNING  
STATE OF HAWAII**

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**DAVID Y. IGE**  
GOVERNOR

**LEO R. ASUNCION**  
DIRECTOR  
OFFICE OF PLANNING

Statement of  
**LEO R. ASUNCION**  
Director, Office of Planning  
before the  
**HOUSE COMMITTEE ON AGRICULTURE AND  
HOUSE COMMITTEE ON TOURISM**  
Wednesday, February 10, 2016  
10:15 AM  
State Capitol, Conference Room 312

in consideration of  
**HB 2091**  
**RELATING TO LAND USE.**

Chairs Tsuji and Brower, Vice Chairs Onishi and Ohno, and Members of the House Committees on Agriculture and Tourism.

The Office of Planning (OP) strongly supports HB 2091 which would amend Hawaii Revised Statutes (HRS) Chapter 205 to (1) clarify the provisions for agricultural tourism activities, including overnight accommodations, as a permissible use for a bona fide farming operation in the State Agricultural District; and (2) set uniform standards for defining a bona fide farming operation for the purposes of regulating agricultural tourism statewide.

A major objective of HRS Chapter 205 is to protect agricultural lands and ensure their continued availability for agricultural use. This bill would help bona fide farmers statewide to incorporate this kind of value-added revenue generating activity within their farming operations, and ensure that no bona fide farmer is unduly barred from doing so simply because of geography.

County planning departments were previously consulted in development of the final bill, and the bill reflects the feedback and concerns raised by individual county representatives.

Under HB 2091, the counties would be able to apply a uniform standard for eligible farmer applicants and process these permits using their existing codes, as amended to conform to the bill's standards. The proposed income standards in HB 2091 are based on the threshold adopted for an additional farm labor dwelling under Maui County code and the threshold adopted for agricultural tourism activities under Hawaii County code. The permissible length of stay conforms to that contained in county codes.

The bill strives to find a balance between ease of administration—through the requirement for documentation of agricultural income—and setting appropriate standards for defining and regulating agricultural tourism and overnight accommodations in the State Agricultural District.

Thank you for the opportunity to testify on this measure.

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, February 08, 2016 5:19 AM  
**To:** AGRtestimony  
**Cc:** kauaihale@gmail.com  
**Subject:** Submitted testimony for HB2091 on Feb 10, 2016 10:15AM

**HB2091**

Submitted on: 2/8/2016

Testimony for AGR/TOU on Feb 10, 2016 10:15AM in Conference Room 312

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Louisa Wooton	Kauai Kunana Dairy	Support	No

Comments: Our family farm on Kaua'i absolutely supports this legislation for AG Tourism. Key to the success of such an Act is proper enforcement to prevent non-bonafide farming operations from taking advantage of this opportunity. As most county ordinances now stand, the cost of special use permits prevents most farms from being able to offer AG tourism activities. This legislation would be HUGE step in supporting diversified AG and keeping food producing operations viable for our State. Mahalo for this opportunity to testify in SUPPORT of HB2091.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, February 09, 2016 10:44 AM  
**To:** AGRtestimony  
**Cc:** rkailianu57@gmail.com  
**Subject:** \*Submitted testimony for HB2091 on Feb 10, 2016 10:15AM\*

**HB2091**

Submitted on: 2/9/2016

Testimony for AGR/TOU on Feb 10, 2016 10:15AM in Conference Room 312

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Rachel L. Kailianu	Ho`omana Pono, LLC	Oppose	Yes

Comments:

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**DAVID Y. IGE**  
Governor

**SHAN S. TSUTSUI**  
Lt. Governor



State of Hawaii  
**DEPARTMENT OF AGRICULTURE**  
1428 South King Street  
Honolulu, Hawaii 96814-2512  
Phone: (808) 973-9600 FAX: (808) 973-9613

**SCOTT E. ENRIGHT**  
Chairperson, Board of Agriculture

**PHYLLIS SHIMABUKURO-GEISER**  
Deputy to the Chairperson

**TESTIMONY OF SCOTT E. ENRIGHT**  
**CHAIRPERSON, BOARD OF AGRICULTURE**

**BEFORE THE HOUSE COMMITTEES ON AGRICULTURE**  
**AND TOURISM**

February 10, 2016  
10:15 A.M.  
CONFERENCE ROOM 312

**HOUSE BILL NO. 2091**  
**RELATING TO LAND USE**

Chairpersons Tsuji and Brower and Members of the Committees:

Thank you for the opportunity to testify on House Bill No. 2091 that permits agricultural tourism uses and activities, including overnight accommodations, in conjunction with bona fide farming operations throughout the Agricultural District and establishes operational and income requirements. The Department of Agriculture strongly supports this measure.

The Department of Agriculture has long supported giving bona fide farming the opportunity to generate supplemental income from uses and activities that are clearly accessory and secondary to the principal agricultural activity. This bill ensures this will occur with respect to agricultural tourism and agricultural activities, including overnight facilities.

This bill establishes an annual gross income threshold of \$35,000 necessary to qualify for agricultural tourism operations requiring permanent enclosed structures or provide overnight accommodations (page 9, lines 14-21). For proposed agricultural tourism operations that do not require permanent enclosed structures or do not provide overnight accommodations, the annual gross income threshold is \$10,000 (page 10, lines 1-4).

The attached table show the estimated number of farms by county that would meet the \$35,000 and \$10,000 annual gross income thresholds (2012 Census of Agriculture – County Data, Table 2, page 210)

Thank you for the opportunity to present our testimony.



**ESTIMATED NUMBER OF FARMS BY COUNTY THAT WOULD MEET THE \$35,000 OR \$10,000 ANNUAL GROSS INCOME CRITERION FOR AGRICULTURAL TOURISM OPERATIONS THAT DO OR DO NOT REQUIRE PERMANENT STRUCTURES AND PROVIDE OVERNIGHT ACCOMMODATIONS**

The Department of Agriculture estimated the number of farms, by county, that would meet either the \$35,000 or \$10,000 annual gross income thresholds (data from 2012 Census of Agriculture – County Data, Table 2, page 210)

**Total number of farms that meet or exceed the \$35,000 annual gross income threshold for agricultural tourism operations that require permanent structures and provide overnight accommodations<sup>1</sup>**

<b>COUNTY</b>	<b>Number of qualifying farms/total farms</b>
Kauai	81 (14%) of 591 total farms
Oahu	270 (27%) of 999 total farms
Maui	157 (14%) of 1,128 total farms
Hawaii	654 (15%) of 4,282 total farms

**Total number of farms meet the minimum \$10,000 annual gross income threshold for agricultural tourism operations that do not require permanent structures or do not provide overnight accommodations but do not meet the \$35,000 threshold**

<b>COUNTY</b>	<b>Number of qualifying farms/total farms</b>
Kauai	127 (21%) of 591 total farms
Oahu	275 (28%) of 999 total farms
Maui	262 (23%) of 1,128 total farms
Hawaii	1,084 (26%) of 4,282 total farms

**Total number of farms that make less than the \$10,000 annual gross income threshold and do not qualify for agricultural tourism operations**

<b>COUNTY</b>	<b>Number of non-qualifying farms/total farms</b>
Kauai	383 (65%) of 591 total farms
Oahu	454 (45%) of 999 total farms
Maui	709 (63%) of 1,128 total farms
Hawaii	2,544 (59%) of 4,282 total farms

<sup>1</sup> The 2012 Census of Agriculture does not have an income category of \$35,000 and up. DOA staff assumed that of the farms in the \$25,000 to \$39,999 value of sales grouping, 1/3<sup>rd</sup> of them made at least \$35,000 in sales annually.



P.O. Box 253, Kunia, Hawai'i 96759  
Phone: (808) 848-2074; Fax: (808) 848-1921  
e-mail [info@hfbf.org](mailto:info@hfbf.org); [www.hfbf.org](http://www.hfbf.org)

February 10, 2016

HEARING BEFORE THE  
HOUSE COMMITTEE ON TOURISM  
HOUSE COMMITTEE ON AGRICULTURE

TESTIMONY ON HB 2091  
RELATING TO AGRICULTURAL TOURISM

Room 312  
10:00 AM

Aloha Chair Brower, Chair Tsuji, Vice Chair Ohno, Vice Chair Onishi, and Members of the Committees:

I am Randy Cabral, President of the Hawaii Farm Bureau Federation (HFB). Organized since 1948, the HFB is comprised of 1,900 farm family members statewide, and serves as Hawaii's voice of agriculture to protect, advocate and advance the social, economic and educational interests of our diverse agricultural community.

**HFB supports the intent HB 2091**, which permits agricultural tourism uses and activities, including overnight accommodations, in conjunction with bona fide farming operations on agricultural district lands statewide and establishes operational and income requirements.

We support the strong position of ensuring that agricultural tourism operations are subordinate to bona fide agricultural operations. We continue to believe that other loosely-related activities that merely use agriculture as a justification belong in the rural district. Moreover, Counties should be encouraged to move in this direction, thereby protecting agricultural lands. This measure also seeks to define "bona fide farming operations" to insure that agricultural tourism operations are subordinate to legitimate agricultural production.

Abuse and enforcement of these laws is usually the challenge and HFB is especially concerned about unintended consequences of allowing other types of activities on agriculture land. We believe the primary purpose within the Agricultural District is production agriculture. The option of a rural district is available in which agriculture is a choice and appropriate other agricultural tourism activities that focus on tourism as the primary enterprise.



HFB is in support of the deletion of the “three islands in a County” requirement for overnight accommodations as long as the condition of requiring a County Ordinance is retained. Different counties may have different opinions of what comprises agricultural tourism. HFB worked to have the condition of a county ordinance included in this provision. We stand by that condition. We are not clear why the maximum days of stay for overnight accommodation was increased from 21 days or less to no less than 30 days.

We believe that the details of agricultural tourism to be a Home Rule issue and we request that the requirement that a County adopt ordinances regulating agricultural tourism operations remain in statute. Counties may differ in their opinions of what they allow. This should be duly respected and falls within the purview of County zoning code.

All of the Counties have faced challenges of non-agricultural uses entering the agricultural district. As we move to address overnight accommodations on agricultural lands, it is important that we do not create unintended consequences that impact expanded commercial production of agricultural products that is the intent of agricultural lands.

Thank you for this opportunity to provide comments on this measure.

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, February 10, 2016 8:37 AM  
**To:** AGRtestimony  
**Cc:** darakawa@lurf.org  
**Subject:** Submitted testimony for HB2091 on Feb 10, 2016 10:15AM

**HB2091**

Submitted on: 2/10/2016

Testimony for AGR/TOU on Feb 10, 2016 10:15AM in Conference Room 312

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
David Z. Arakawa	Land Use Research Foundation of Hawaii	Oppose	No

Comments: The land Use Research Foundation of Hawaii supports the intent of this measure, but must OPPOSE HB 2091, because its requirements (that the farmer be in operation for at least two years, have a majority of the annual gross in come from the sale of agricultural products, and a five-year look-back period for annual gross sales of agricultural products) unfairly prohibits new farmers, experienced farmers with new companies, or farmers that relocate to available new agricultural parcels to do diversified agriculture (i.e. A&B lands on Maui), from obtaining an Agricultural Tourism permit. While LURF supports the intent of this measure, it must OPPOSE the current version of this HB 2091. LURF remains willing and able to work with the proponents of this bill and the Hawaii Farm Bureau, to propose amendments that would be more fair and acceptable for new farming operations.

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DEPARTMENT OF PLANNING AND PERMITTING  
**CITY AND COUNTY OF HONOLULU**

650 SOUTH KING STREET, 7<sup>TH</sup> FLOOR • HONOLULU, HAWAII 96813  
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KIRK CALDWELL  
MAYOR



GEORGE I. ATTA, FAICP  
DIRECTOR

ARTHUR D. CHALLACOMBE  
DEPUTY DIRECTOR

February 10, 2016

The Honorable Cliff Tsuji Chair  
and Members of the Committee on Agriculture  
The Honorable Tom Brower, Chair  
And Members of the Committee on Tourism  
Hawaii House of Representatives  
Hawaii State Capitol  
415 South Beretania Street  
Honolulu, Hawaii 96813

Dear Chairs Tsuji and Brower and Committee Members:

Subject: House Bill No. 2091  
Relating to Land Use

The Department of Planning and Permitting (DPP) **opposes** House Bill No. 2091. This Bill would amend Chapter 205, Hawaii Revised Statutes, to expand agricultural tourism activities to include overnight accommodations. They would be an accessory use to a "bona fide" farming operation within the State Agricultural District, providing the farm meets certain minimum criteria. We opposed similar bills in 2014 and 2015 for reasons stated below.

While we appreciate provisions that would assist with administering the Bill, the City and County of Honolulu is not equipped to conduct the proposed monitoring and enforcement provisions, including the review of each farmer's tax records to determine whether they meet the provisions of the Bill. Is a "farming operation" limited to one property, or can it be located on multiple properties? If on multiple properties, can they be geographically separated from each other to qualify for overnight accommodations? If income tax records are filed covering multiple properties, how will the counties be able to disaggregate the records to attribute the income and gross sales information for the particular property? From our experience, specific dollar limits adopted into law become outdated, but not readily updated. We would not be opposed to a counter provision that on a regular basis, the State will provide the counties with a declaration that a particular business on a specified property is a bona fide farming operation.

In addition to challenges with administering this Bill, it would continue the "slippery slope" of recent amendments to Chapter 205 that relax the types of non-agricultural uses allowed in the State agricultural district. We continue to be challenged with maintaining agricultural lands primarily for agricultural uses, when other, seemingly minor uses, are added on an incremental basis. Cumulatively, these ancillary uses can become the financial foundation and dominant physical element on the lands. We must admit that our experience with enforcing short-term

The Honorable Clift Tsuji, Chair  
and Members of the Committee on Water and Land  
The Honorable Tom Brower, Chair  
And Members of the Committee on Tourism  
Hawaii House of Representatives  
Hawaii State Capitol  
Re: House Bill No. 2091  
February 10, 2016  
Page 2

rental regulations has proved challenging; banning them outright is more manageable than monitoring them. The introduction of short-term rentals, a rather lucrative use, will likely raise expectations about "highest and best use" of agricultural land, much as they have influenced residential land values. Moreover, as in previous bill versions, House Bill No. 2091 does not set a maximum number of "accommodations," and could be interpreted to allow full-service, 200-room hotels, which may not be the intent of the Bill.

You may be interested to know that the City is preparing maps to designate important agricultural lands (IAL), as mandated by the State Constitution. Community meetings were held last year, preliminary maps shared, and a special website created. We hope to have these maps before the State Land Use Commission by the end of this year. We suggest that IAL be first designated before any further amendments to Chapter 205 are considered. Once we know where the IAL are, we can better tailor regulations to foster their continued use as an economic and self-sufficiency resource.

As an alternative, the State could consider allowing bed and breakfast homes (B&Bs), rather than hotels. The difference is that B&Bs are an accessory use; the rooms would be a part of the farm dwelling and operated by the occupant of the farm dwelling. Hotels and other short-term rentals are operated as independent uses. Having made this suggestion, please be aware that the City has no plans to introduce B&Bs or agricultural tourism accommodations to agriculturally zoned lands for the reasons listed above.

In short, please file House Bill No. 2091 because: 1) it adds administrative burdens to the counties; 2) it increases speculation in the value of agricultural land due to the increasing number of non-agricultural uses that are allowed on them; and 3) it is premature to adjust uses in the agricultural district, when we are in the midst of designating IAL.

Thank you for this opportunity to testify.

Very truly yours,



George I. Atta, FAICP  
Director

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Friday, February 05, 2016 8:34 PM  
**To:** AGRtestimony  
**Cc:** gordines@kauaiflowers.com  
**Subject:** \*Submitted testimony for HB2091 on Feb 10, 2016 10:15AM\*

**HB2091**

Submitted on: 2/5/2016

Testimony for AGR/TOU on Feb 10, 2016 10:15AM in Conference Room 312

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
John R. Gordines	Individual	Oppose	No

Comments:

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, February 09, 2016 4:14 PM  
**To:** AGRtestimony  
**Cc:** tulsi@mauiishome.com  
**Subject:** Submitted testimony for HB2091 on Feb 10, 2016 10:15AM

**HB2091**

Submitted on: 2/9/2016

Testimony for AGR/TOU on Feb 10, 2016 10:15AM in Conference Room 312

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Tulsi	Individual	Support	No

Comments: Please support this bill!! Thank you

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**Cc:** katc31999@gmail.com  
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**HB2091**

Submitted on: 2/9/2016

Testimony for AGR/TOU on Feb 10, 2016 10:15AM in Conference Room 312

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Katarina Culina	Individual	Support	No

Comments:

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